

Subject: FAQs About COBRA Continuation Health Coverage

From: James Sumpter <jsump@ieee.org>

Date: Fri, 13 Mar 2009 22:34:25 -0400

To: d gloster <dgloster@fbm.com>, "Carol, Kathy" <catcar55@aol.com>, "Nicholson, Todd" <rnicholson@indy.rr.com>, "Gifford, Ben" <wbgifford@aol.com>, "Hagenbach, Jim" <hagenbachj@yahoo.com>, "Conger, Jim" <salaryhelp@hotmail.com>, Jim Frost <james.r.frost@roadrunner.com>, james sumpter <jsump@ieee.org>, "Jon D. Cohen" <JCohen@stahlcowen.com>

Dean:

Pleas look at this and answer the questions in Red.

I took the text below of the Department of Labors web site. (See the link below).
Acording to this those people eligible for Cobra only pay 35% of the premium cost.
(Cathy I think this means you)

Why does Delphi not want to classify the change in the Plan as a COBRA event? Does it cost them something?

Should we not also be telling our retirees who are Cobra Eligible about this? These people could stay in the COBRA plan until it ended then join the VEBA. I wonder if the 35% premium would also be eligible for HCTC if the pension went to the PGBC?

I have heard about the new COBRA extension and subsidy that was contained in the Stimulus package signed by the President. I would like more information. The American Recovery and Reinvestment Act of 2009 expanded eligibility for COBRA and provides a premium reduction to certain qualified individuals.

Individuals eligible for COBRA coverage who were involuntarily terminated by their employer on or after September 1, 2008 through December 31, 2009 who are eligible for COBRA and elect COBRA may be eligible to pay a reduced premium amount that is only 35% of the premium costs for your COBRA coverage.

If you were terminated during that period and were covered by your employer's plan on your last day of employment, your plan administrator should provide you a notice of your eligibility to elect COBRA and to receive a premium reduction. You may also want to contact your employer directly to ask about getting the premium reduction.

If you have specific questions about your situation and how these new rules apply to you, you may wish to speak with one of our Benefits Advisors by calling 1.866.444.3272. You should also check the Employee Benefits Security

Administration's dedicated Web page at www.dol.gov/COBRA. This Web page will contain helpful information and will be updated regularly to include FAQs and new information related to the process you should follow to apply for COBRA and/or the premium reduction.

http://www.dol.gov/ebsa/faqs/faq_consumer_cobra.HTML

James Sumpter

Subject: FW: It's time for me to find an exit
From: "Jim Frost" <james.r.frost@roadrunner.com>
Date: Thu, 8 Jul 2010 20:16:18 -0400
To: <jsump@ieee.org>, <jgosik@mac.com>

James,
Don't let one person's political noise drive you away. We need all the help we can get. We're all volunteers and have a lot we're trying to do. Some people get carried away. Please don't let the rest of us volunteering down.

At least help us maintain the PayPal system.

Jim Frost
DSRA Interim Vice-Chair
<http://www.delphisalariedretirees.org>



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From: james Sumpter [mailto:jsump@ieee.org]
Sent: Thursday, July 08, 2010 7:41 PM
To: John/Judy Gosik
Cc: Bruce Gump; Allen081644@aol.com; higgins297@roadrunner.com; tomjacirose@sbcglobal.net; oetiker@aol.com; mbcharles55@aol.com; pbeiter@rochester.rr.com; lluckyx4@aol.com; lcroisdale@magicbilliards.com; [wingpr72@hotmail.com](mailto>wingpr72@hotmail.com); carollight1@hotmail.com; denblack@cox.net; james.r.frost@roadrunner.com; mouse0@thecyberbase.com; kbhollis@aol.com; cathylukasko@aol.com; RBvonS@comcast.net; mjhissam@sbcglobal.net; erdman35473@yahoo.com; jimandnette@aol.com; salaryhelp@hotmail.com; jgosik@mac.com; mbcharles1@aol.com; gputt@wi.rr.com; skeeter@ndwave.com; catcar55@aol.com; jamacbain@aol.com; woodstc1@aol.com; hofius@aol.com; karigaffe@earthlink.net; rnicolson@indy.rr.com; jimthomas1@aol.com; ginesi.fam@sbcglobal.net; gary.l.robertson@gmail.com; JJ1955@aol.com; hagenbachj@yahoo.com; trsmjs08@aol.com; cmayer7744@sbcglobal.net; hudzikwar@aol.com; wbgifford@aol.com; ralee00@aol.com; mahusar@aol.com; jab346@comcast.net; jdc3119@aol.com; dblcocks@aol.com; joseph.devitto@att.net; fparndt@aol.com; jimmymayne@earthlink.net
Subject: It's time for me to find an exit
Importance: High

Hey Chet:

I've made the decision to be less active with the DSRA. This means, you will need to make arrangements for a new assistant and to remove me from the checking account. We will have to also find someone else to own the Paypal account. Up to now, I had been the guarantor, which meant that if someone had a financial issue, I was on the hook with Paypal. That, we need to

change ASAP, otherwise this donation vehicle will be lost.

Its probably appropriate to remove me from the core contact group. We will need to identify a new account contact for Global Crossing also. Den Black and Frost are copied on this so they can take appropriate action. I will also be disconnecting from the Yahoo group.

I continued to have hopes of setting up a disabled sub-group. If I can find the energy and motivation, I will get it done at some point.

Although its not been a secret, I had not shared with many that my pension was not reduced when the PBGC took over. This is because I am disabled and because my pension is not that large.

[REDACTED] In spite of that, I have tried to support the DSRA effort and I have tried to be a positive force. I've done this even though I have always been concerned that that our efforts could cause the pension to end up back in Delphi's hands. There are documented cases where the PBGC returned to pension to the original company.

The point is; I think I'm used up. I am absolutely exhausted by the unrelated partisan politics. I'll continue my efforts regarding the COBRA issue and let everyone know if there is a breakthrough.

James Sumpter

Subject: RE: Increase in premium and COBRA
From: James Sumpter <jsump@ieee.org>
Date: Wed, 18 Mar 2009 07:51:21 -0400
To: d gloster <dgloster@fbm.com>
CC: "Carol, Kathy" <catcar55@aol.com>, "Nicholson, Todd" <rnicholson@indy.rr.com>, "Gifford, Ben" <wbgifford@aol.com>, "Hagenbach, Jim" <hagenbachj@yahoo.com>, "Conger, Jim" <salaryhelp@hotmail.com>, Jim Frost <james.r.frost@roadrunner.com>

Dean:

Please follow up on the information provided regarding "*Increase in Premium is Loss of Coverage*".

Below is an excerpt from the document (February 20, 2001 : 2001–8 I.R.B): I have also attached a PDF version of the complete article.

I Understand this section to mean that a n increase in premium is a COBRA event. **This article makes no reference to bankruptcy.** Therefore, according to this text, the increase of Retirees premiums by Delphi is a Cobra event. As a result, all retirees are entitled to Cobra coverage. Furthermore, COBRA regulations require a 60 day election period which did not take place, and it requires a 45 day period after election for the first payment.

I believe the implications of this are that Delphi must issue COBRA notices and provide for the 60 day waiting period. I think this would mean that Delphi would have to wait another two months before they could make their changes. I think this would get us at least the equivalent two month full subsidy period we have requested.

In addition, numerous retirees were quoted higher rates than the COBRA rate. Therefore the Cobra rates will be an advantage to some retirees. Perhaps you are also in the best position to make inquiries into Delphi regarding the difference between the self pay cost and the COBRA cost.

This text and article came from the IRS web site. although it may exist, I could find no superseding document. Please confirm that this is applicable is applicable to the Retirees situation, and address the correctness of my conclusions. Please, reference and attach relevant documents, legislation, rules, etc. that support your conclusion.

James Sumpter

Increase in Premium is Loss of Coverage (page 686, 2001-8 I.R.B.)

<p>The 1999 final regulations provide, in describing what constitutes a loss of coverage for determining whether a qualifying event has occurred, that any increase in premium or contribution that must be paid for coverage as a result of one of the events that can be a qualifying event is a loss of coverage. Several commenters questioned why this rule was adopted and pointed out that it creates administrative burdens in two situations without apparently providing any advantage to the people whose premium is being increased. The two situations concern retiring employees and full-time employees reducing their work hours to become parttime</p>	<p>The IRS and Treasury were mindful of these situations before they adopted the rule in the 1999 final regulations. However, if a mere increase in premium were not considered a loss in coverage, the person whose premium is being increased would not be entitled by law to a 60-day election period nor to a 45-day period after the election for making the first premium payment. Although in many cases a qualified beneficiary might prefer a lower premium over these procedural protections under COBRA, in some cases these procedural protections might be more valuable. The likelihood of the COBRA procedural protections being more valuable than the lower premium becomes substantial as the amount</p>
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<p>employees. In both situations, often employers will grant the employees access to the same coverage but will require them to pay a premium that is higher than what active employees pay though still significantly less than the 102 percent rate permitted under COBRA. The commenters wondered why it is necessary to provide these individuals with a COBRA notice if it is always advantageous for the individual to take the other coverage. They suggested that a loss of coverage should not be considered to have occurred if employees (or other qualified beneficiaries) can get access to the same coverage for less than the applicable premium under COBRA.</p>	<p>required to be paid for part-time or retiree coverage approaches the amount of the applicable premium. Accordingly, the final regulations retain the rule in the 1999 final regulations so as not to deprive qualified beneficiaries of potentially valuable rights.</p> <p>becomes substantial as the amount required to be paid for part-time or retiree coverage approaches the amount of the applicable premium. Accordingly, the final regulations retain the rule in the 1999 final regulations so as not to deprive qualified beneficiaries of potentially valuable rights.</p>
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Subject: It's time for me to find an exit
From: james Sumpter <jsump@ieee.org>
Date: Thu, 08 Jul 2010 19:40:47 -0400
To: John/Judy Gosik <jgosik@mac.com>
CC: Bruce Gump <bruceg.delphi@gmail.com>, Allen081644@aol.com, higgins297@roadrunner.com, tomjacirose@sbcglobal.net, oetiker@aol.com, mbcharles55@aol.com, pbeiter@rochester.rr.com, lluckyx4@aol.com, lcroisdale@magicbilliards.com, wingpr72@hotmail.com, carollight1@hotmail.com, denblack@cox.net, james.r.frost@roadrunner.com, mouse0@thecyberbase.com, kbhollis@aol.com, cathylukasko@aol.com, RBvonS@comcast.net, mjhissam@sbcglobal.net, erdman35473@yahoo.com, jimandnette@aol.com, salaryhelp@hotmail.com, jgosik@mac.com, mbcharles1@aol.com, gputt@wi.rr.com, skeeter@ndwave.com, catcar55@aol.com, jamacbain@aol.com, woodstc1@aol.com, hofius@aol.com, karigaffe@earthlink.net, rnicholson@indy.rr.com, jimthomas1@aol.com, ginesi.fam@sbcglobal.net, gary.l.robertson@gmail.com, JJ1955@aol.com, hagenbachj@yahoo.com, trsmjs08@aol.com, cmayer7744@sbcglobal.net, hudzikwar@aol.com, wbgifford@aol.com, ralee00@aol.com, mahusar@aol.com, jab346@comcast.net, jdc3119@aol.com, dblcorks@aol.com, joseph.devitto@att.net, fparndt@aol.com, jimmymayne@earthlink.net

Hey Chet:

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In spite of that, I have tried to support the DSRA effort and I have tried to

be a positive force. I've done this even though I have always been concerned that that our efforts could cause the pension to end up back in Delphi's hands. There are documented cases where the PBGC returned to pension to the original company.

The point is; I think I'm used up. I am absolutely exhausted by the unrelated partisan politics. I'll continue my efforts regarding the COBRA issue and let everyone know if there is a breakthrough.

James Sumpter

Subject: Re: James Sumpter, DSRA, COBRA
From: james Sumpter <jsump@ieee.org>
Date: Fri, 16 Jul 2010 14:08:57 -0400
To: carol light <carollight1@hotmail.com>

Dear Carol:

Thanks for your kind notes.

Although I'm giving up my DSRA responsibilities, I still have a couple of things that I'm working on that affects us retirees. One of these things is the COBRA obligation that Delphi has. In some e-mail I received, I recall someone noting that you had an interest or was also working on the COBRA issue. Is that correct?

Please give me your status. I have been trying to identify someone who could help with this COBRA issue. I have done a substantial amount of work involving the DOL and IRS. I also have Senator Lugar's office helping. (I don't know how much that is yet. I should get some feedback next week.) However, my health limits me a great deal. Therefore It would be good if I had an accomplice :-).

**James Sumpter
317-877-0736**

On 7/9/2010 10:15 AM, carol light wrote:
Hi Jim,

Sorry to hear about your exit, but completely understand. Good luck in your future endeavors.

Regards,
Carol

From: james Sumpter [<mailto:jsump@ieee.org>]
Sent: Thursday, July 08, 2010 7:41 PM
To: John/Judy Gosik
Cc: Bruce Gump; Allen081644@aol.com; higgins297@roadrunner.com; tomjacirose@sbcglobal.net; oetiker@aol.com; mbcharles55@aol.com; pbeiter@rochester.rr.com; luckyx4@aol.com; lcroisdale@magicbilliards.com; [wingpr72@hotmail.com](mailto>wingpr72@hotmail.com); carollight1@hotmail.com; denblack@cox.net; james.r.frost@roadrunner.com; mouse0@thecyberbase.com; kbhollis@aol.com; cathylukasko@aol.com; RBvonS@comcast.net; [mhissam@sbcglobal.net](mailto:mjhissam@sbcglobal.net); erdman35473@yahoo.com; jimandnette@aol.com; salaryhelp@hotmail.com; jgosik@mac.com; mbcharles1@aol.com; gputt@wi.rr.com; skeeter@ndwave.com; catcar55@aol.com; jamacbain@aol.com; woodstc1@aol.com; hofius@aol.com; karihoffe@earthlink.net; rnickolson@indy.rr.com; jimthomas1@aol.com; ginesi.fam@sbcglobal.net; gary.l.robertson@gmail.com; JJ1955@aol.com; hagenbachj@yahoo.com; trsmjs08@aol.com; cmayer7744@sbcglobal.net; hudzikwar@aol.com; wbgifford@aol.com; ralee00@aol.com; mahusar@aol.com; jab346@comcast.net; jdc3119@aol.com; dblorks@aol.com; joseph.devitto@att.net; fparndt@aol.com; jimmymayne@earthlink.net

Subject: It's time for me to find an exit

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[REDACTED] In spite of that, I have tried to support the DSRA effort and I have tried to be a positive force. I've done this even though I have always been concerned that that our efforts could cause the pension to end up back in Delphi's hands. There are documented cases where the PBGC returned to pension to the original company.

The point is; I think I'm used up. I am absolutely exhausted by

**the unrelated partisan politics. I'll continue my efforts
regarding the COBRA issue** and let everyone know if there is a breakthrough.

James Sumpter

Subject: Re: Life Time COBRA
From: James Sumpter <jsump@ieee.org>
Date: Sun, 30 Aug 2009 12:25:59 -0400
To: Delphi_SR_Network@yahoogroups.com
CC: lssears1147@yahoo.com, chuckdejohn@yahoo.com

**In response to the message inquiring as to whether
COBRA is a life time event:**

US Code, Title 29 and Title 26, state that COBRA is a life time event if retirees loose their benefits as a result of bankruptcy. (Which we did.)

Delphi has taken the position that our loss of benefits did not meet the standards set out in the laws.

I don't agree with this and have taken several actions to force some financial accountability on Delphi's part.

One of the points I made was that Delphi should not have been charging retirees the self pay rate that was about 37% higher than the COBRA rate. The other is that Delphi's COBRA obligation should continue for the life time of the retirees.

**1) I filed a motion on July 17 that was heard in court, at the July 29
Omnibus hearing. The link below is to a PDF version of my motion.**

<http://media.delphidocket.com/documents/0544481/0544481090717000000000009.pdf>

If you have time to read the motion and the support documents, you will see the issues raised, and the financial accountability that I asked the court to enforce. (The relevant parts of Title 29 and 26 can be found in the attachments to the motion.)

The Court ruled against my motion (on a very narrow point). As a result, I believe that I will be able to refile this motion when I receive a requested ruling from the IRS. (The IRS by statute has the responsibility for enforcing COBRA compliance.) Essentially the judge ruled that he would not let my motion stop Delphi's reorganization from going forward.

The Judge Drain's ruling can be found here:

<http://media.delphidocket.com/documents/0544481/0544481090803000000000006.pdf>
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2) I filed a request with to IRS for a ruling invalidating the position that Delphi has taken regarding COBRA.

I have been contacted by the assigned attorney from the IRS. I expect his ruling soon and I, guardedly, expect it to support my position.

When I receive this ruling I will re-file my motion with the court. (If you read my motion, you will also see a copy of the request that I filed with the IRS)

3) When I filed my motion with the court, I made certain that potential successor companies and/or transferee's of Delphi assets were notified. This notification ensures that they are all aware that there is a potential COBRA obligation and that that obligation continues to the successor companies and/or transferees, if certain conditions are met (e.g., They offer a health insurance plan.)

In general, I don't think we, any longer, want Delphi COBRA. We have our VEBA. Delphi COBRA is more expensive and the COBRA benefit could be lost if Delphi or its successors ever ended, or substantially reduced, all its health insurance plans.

In addition, I don't think we want to be financially connected to Delphi or its successor's, in any way, if we can help it. The VEBA permits us to be in control of our own fate. Thus, I expect that if my efforts are successful, Delphi and/or its successors will be forced pay a sum of money (I argue for \$500,000,000 - 500 million dollars) that will go to our VEBA trust. The best case result would be that our health insurance rate would lower and some people (i.e., under 55 and 65 and over retirees) would get a much better benefit.

4) I have also made another part of the IRS aware that Delphi is not in compliance with the law, which makes it subject to an IRS imposed excise tax of \$100 per day per retiree for each day that it fails to issue a COBRA notice. That is approximately \$600,000 per day. The total sum is now over \$100,000,000 and growing.

Should I prevail with my next motion, this site will be one of the first places that gets the news.

James Sumpter

Subject: RE: Obama installs PBGC nominee over Delphi retiree objections
From: "Jim Frost" <james.r.frost@roadrunner.com>
Date: Thu, 8 Jul 2010 19:15:27 -0400
To: <jsump@ieee.org>

James, thanks, understand your concern. We have a few people like Allen that get out of control. The best thing to do is just ignore them. We really need bipartisan support to be successful. Glad your pension is intact. I got a 30% hit, Hagenbach got 70%.

Cathy Cone has commented on the COBRA, I could pass on to her and get her take and help.

Thanks for all your support.

Jim Frost
DSRA Interim Vice-Chair
<http://www.delphisalariedretirees.org>



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From: James Sumpter [mailto:jsump@ieee.org]
Sent: Thursday, July 08, 2010 7:04 PM
To: Jim Frost
Subject: Re: Obama installs PBGC nominee over Delphi retiree objections
Importance: High

Hey Frost:

It's been a while. Thanks for your advice.

Just so you know, my comments were not a vent. They were a direct reply to Allen and his political diatribe, which was directed at me in front of the same large audience, while having no relevance to DSRA issues.

I also gave considerable thought to whether I should copy the entire distribution or not.

I decided it was important for the distribution to know that at least one member of the group was not happy to be assaulted with Allen's unrelated and unhelpful political grousing.

I understood that some might not embrace my comments. After all, most of us don't want conflict. However, I've tried many polite, but unsuccessful, ways to discourage the partisan politics.

I encounter polarized politics too often, from both sides. It is not solicited and it is unwelcome. I had a guy, doing my blood labs the other day, start up on the subject. I have my political perspective. However, I have other, more productive ways, to pursue my agenda. I have no expectation of changing anyone opinion through e-mail discourse or verbal jousting. I wish they would have the same expectation regarding me.

You may not know that my pension was not reduced when the PBGC took over. This is because I am disabled and because my pension is not that large. In October, I will have been disabled longer than I was a Delphi/GM employee. In spite of that, I have tried to support the DSRA effort and I have tried to be a positive force. I, also, continue to pursue the COBRA issues, which has significant financial importance to us Delphi Retirees. (FYI: I gave Paul Debosz my complete dossier on the matter. Send me your mailing address, and I'll send you a copy also.)

None of that means I'm willing to endure the kind of partisan politics that Allen foments. Because of behavior like Allen's, I have been dithering about my continued involvement and

support. If being a part of the DSRA means that I have to supply a platform for Allen's agenda (and those like him), I will withdraw.

Take Care,

James Sumpter

On 7/8/2010 5:25 PM, Jim Frost wrote:

James, please refrain from venting with such a large audience.

Jim Frost
DSRA Interim Vice-Chair
<http://www.delphisalariedretirees.org>



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Subject: DSRA and Delphi cobra
From: James Sumpter <jsump@ieee.org>
Date: Mon, 13 Jul 2009 17:53:12 -0400
To: Den Black <denblack@cox.net>, Jim Frost <james.r.frost@roadrunner.com>, Paul Dobosz <pjdobosz@verizon.net>

DSRA Leadership.

I've spent the last few weeks working on an issue related to Delphi and COBRA. Essentially, the law says that if a retirees health care benefits are reduced or terminated during a bankruptcy and the company still has another health insurance plan, then the retirees are entitled to life time COBRA.

As much effort through the government maze, I figured out how to submit a request for a ruling on this issue from both the IRS and the Department of Labor. For this issue the law says the two departments have to coordinate.

I have also file a motion with the court to try to force Delphi to offer COBRA.

I have attached the fillings that I just sent in. The filing contains a copy of the request I sent to the IRS and the DOL.

I think the easiest way for you to understand the issue is to read my motion. the various laws are referenced also.

I filed my motions, pro se, so my only direct cot so far is about \$250 in Fed ex charges.

I would like to know, if I am successful, and the court agrees to hear my motion, is the DSRA able and willing to hire an attorney (e.g.Jon Cohn) to be in court with me that day.

There is more strategy to this filing. However, I don't want to put it in an e-mail. I can talk about it in a conference call.

I am also willing to answer individual calls on any questions you may have.

There are five PDF files. Also, you may have other members of the leadership that you may want to forward this e-mail to.

James Sumpter

317-877-0736